IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

WP(C).No. 8996 of 2007(U)

PETITIONER:

V.SIDDIQUE, S/O.EBRAHIMKUTTY,
VARIKKODAN HOUSE, PERINTHALMANNA,
MALAPPURAM DISTRICT.

BY ADV. SRI.BOBBY JOHN
SRI.P.N.DAMODARAN NAMBOODIRI

RESPONDENTS:
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1. **THE INTELLIGENCE OFFICER**
   (SQUARD NO.1), COMMERCIAL TAXES,
   MALAPPURAM.

2. **THE DEPUTY COMMISSIONER,**
   COMMERCIAL TAXES, MALAPPURAM.

3. **THE COMMISSIONER OF COMMERCIAL TAXES,**
   THIRUVANANTHAPURAM.

4. **THE SPECIAL DEPUTY TAHSILDAR(RR),**
   PERINTHALMANNA.

BY SR.GOVT.PLEADER SRI. MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.8996 of 2007-U

Dated this the 16th day of March, 2007

JUDGMENT

The petitioner challenges Ext.P6 order passed by the Commissioner of Commercial Taxes, Thiruvananthapuram under Section 37 of the K.G.S.T. Act suo motu revising Ext.P3 order of the Deputy Commissioner of Commercial Taxes and restoring Ext.P2 order of the Intelligence Officer. Against the said order, the petitioner has got a right of appeal to this Court under Section 40 of the K.G.S.T. Act. But, the learned counsel for the petitioner submits this is an order under Sec.45 (5). The Commissioner, Commercial Taxes who is exercising the powers of the Board of Revenue (Taxes) can suo motu act under Sec.31(1) and also under Section 45(5). In this case, the authority of the order asserts that he is acting under Sec.31(1). Therefore, the petitioner can challenge the same in appeal before this Court under Sec.40. In view of the appellate remedy available to the petitioner, this writ petition is not maintainable. Accordingly, it is dismissed without prejudice to the contentions of the petitioner.

K.BALAKRISHNAN NAIR, JUDGE.

MS